

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

SHELLY FREELAND,

Plaintiff,

v.

Case No. 12-C-374

ANDREW M. SAUL,
Commissioner of Social Security,

Defendant.

ORDER AWARDING ATTORNEY FEES

Plaintiff Shelly Freeland was awarded past due Social Security benefits in 2017 after this Court remanded her case for reconsideration of her application for disability benefits. Attorney David Traver, who represented Freeland in district court on a 25% contingency fee basis, was only recently made aware of the award and now seeks the balance of allowable attorney fees for his work pursuant to 42 U.S.C. § 406(b).

The Social Security Administration withheld 25%, or \$19,344.50, from Freeland's past due benefits for representatives' fees, and counsel indicates that the Social Security Administration holds \$13,344.50 as of this date for distribution. Attorney Traver previously received \$6,650 under the Equal Access to Justice Act, and now seeks to collect the remaining balance of \$12,694.50. The Commissioner has indicated that he has no objection to the payment of the balance. Dkt. No. 37.

A court may allow as part of its judgment "a reasonable fee . . . not in excess of 25 percent of the total of the past-due benefits to which the claimant is entitled by reason of such judgment." 42 U.S.C. § 406(b)(1)(A). The court must review contingent-fee arrangements "as an independent

check, to assure that they yield reasonable results in particular cases.” *Gisbrecht v. Barnhart*, 535 U.S. 789, 807 (2002). If the contingent-fee agreement is within § 406(b)’s 25 percent boundary, “the attorney for the successful claimant must show that the fee sought is reasonable for the services rendered.” *Id.*

Attorney Traver spent 37.3 hours on Freeland’s case, so the fee sought equates to an hourly rate of \$518.52. This rate falls within the range of comparable work and does not constitute a windfall. Accordingly, Freeland’s motion for attorney’s fees pursuant to 42 U.S.C. § 406(b) (Dkt. No. 33) is **GRANTED**. Attorney Traver is entitled to attorney’s fees in the total amount of \$19,344.50, with the current balance due to him of \$12,694.50 from the benefits awarded Plaintiff. Therefore, the Commissioner shall pay \$ 12,694.50 to Attorney Traver and the remaining balance of \$650.00 to Plaintiff.

SO ORDERED at Green Bay, Wisconsin this 10th day of February, 2021.

s/ William C. Griesbach

William C. Griesbach
United States District Judge